

Karen Paskell (“Mother”) appeals the Madison Superior Court’s denial of her motion to reconsider Michael Paskell’s (“Father”) child support obligation. Concluding sua sponte that this court does not have subject matter jurisdiction due to Mother’s failure to timely file a notice of appeal, we dismiss.

Facts and Procedural History

Mother and Father divorced in March of 2003. Father was awarded custody of their son, and Mother was awarded custody of their two daughters. The trial court did not determine Father’s child support obligation until January of 2006. In fact, the trial court did not even determine Father’s provisional support obligation. Instead, Father paid Mother \$177 a week under a support worksheet prepared by his former attorney. When Father obtained new counsel, his attorney and Mother’s attorney jointly prepared a second support worksheet, agreeing that Father’s support obligation should be \$199, not including support owed due to his overtime income.

On January 31, 2006, Special Judge James O. Anderson ordered that Father’s support obligation be established at \$199 a week, and he further found that Father was current in his obligations of support. Seventy-two days later, on April 13, 2006, Mother filed a notice of appeal, arguing that the trial court erroneously failed to include Father’s overtime income in calculating his gross income.¹

On April 17, 2006, Father objected to the notice of appeal as being untimely. Regarding this objection, the trial court noted, “that the record seems to support

¹ Mother’s brief states that on “March 14, 2006 [the] trial court entered findings on support obligation that was dated January 21, 2006.” Br. of Appellant at 2. However, to support this assertion she cites to Special Judge Anderson’s Findings and Recommendations dated January 31, 2006. We find no support for her contention that the trial court issued additional findings on March 14, 2006, in the record or in the chronological case summary.

respondent's Objection. However, the timeliness dispute is more properly addressed to the Court of Appeals." Appellant's App. p. 12. The trial court then ordered the clerk to prepare the record and the court reporter to prepare the transcript for Mother's appeal.

On April 26, 2006, Mother filed a motion to reconsider, which the trial court denied on May 4, 2006. Mother then filed a corrected notice of appeal on July 12, 2006. On appeal, Father argued the merits of the case and did not raise the issue of whether Mother filed a timely notice of appeal.

Discussion and Decision

The trial court issued its child support order on January 31, 2006. However, Mother did not file a notice of appeal until April 13, 2006, two and a half months after the trial court's judgment. She also did not file a motion to correct error until nearly three months after the trial court's judgment. Therefore, Mother has failed to timely file a notice of appeal pursuant to Indiana Appellate Rule 9(A) (2007) and Indiana Trial Rule 59(C) (2007).

Indiana Appellate Rule 9(A) provides in relevant part:

- (1) *Appeals from Final Judgments.* A party initiates an appeal by filing a Notice of Appeal with the trial court clerk within thirty (30) days after the entry of Final Judgment. However, if any party files a timely motion to correct error, a Notice of Appeal must be filed within thirty (30) days after the court's ruling on such motion, or thirty (30) days after the motion is deemed denied under Trial Rule 53.3, whichever occurs first.

* * *

- (5) *Forfeiture of Appeal.* Unless the Notice of Appeal is timely filed, the right to appeal shall be forfeited

Indiana Trial Rule 59(C) (2007) provides that a motion to correct error, “shall be filed not later than thirty (30) days after the entry of a final judgment or an appealable final order.” Consequently, Mother failed to timely file a motion to correct error and failed to timely file a notice of appeal, as neither was filed within thirty days of the trial court’s judgment. Timely filing of a notice of appeal is a jurisdictional prerequisite. Becker v. State, 719 N.E.2d 858, 860 (Ind. Ct. App. 1999). Moreover, as this court has previously held, compliance with this rule is mandatory. Kelsey v. Nagy, 410 N.E.2d 1333, 1334 (Ind. Ct. App. 1980); see also Cavazzi v. Cavazzi, 597 N.E.2d 1289, 1292 (Ind. Ct. App. 1992). An untimely praecipe requires dismissal of the appeal because it is a jurisdictional failure. Neville v. State, 694 N.E.2d 296, 297 (Ind. Ct. App. 1998).

Accordingly, we must dismiss Mother’s appeal for lack of subject-matter jurisdiction.

Dismissed.

NAJAM, J., and MAY, J., concur.